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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,103	04/16/2007	Gemma L. Wood	GB03 0228 US1	1418

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EXAMINER
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TEATERS, LINDSEY C

ART UNIT	PAPER NUMBER
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3742

MAIL DATE	DELIVERY MODE
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11/24/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/584,103	<b>Applicant(s)</b> WOOD ET AL.	
	<b>Examiner</b> LINDSEY C. TEATERS	<b>Art Unit</b> 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see remarks, filed 08/11/2009, with respect to the rejection(s) of claim(s) 1 and 16-17 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Mangiapane (US 6,360,650 B1) which teaches a beverage maker housing plural beverage collection chambers which are adjustable in alignment with the fluid flow channel from the hot water supply of the beverage maker.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-14 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kodden et al (WO 03/055366 A2), cited by applicant, in view of Mangiapane (US 6,360,650 B1).

Re claims 1-14:

Kodden et al teaches: a beverage maker (1, figure 1) comprising a beverage preparation chamber (13, figure 1) in which beverage can be prepared, a hot water delivery system (7, 45, 46, 9, figure 1) for delivering hot water to the beverage preparation chamber, a discharge opening (33, figure 2) for discharging prepared beverage from the beverage preparation chamber, a beverage collection chamber (36, figure 1) for receiving prepared beverage discharged through the discharge opening, one or more outlets (40, 41, figure 4) for dispensing beverage from the beverage collection chambers into a cup (6, figure 1) for drinking, a filter support (14, figure 1) for supporting a filter comprising a surface and projections (16, 17, figure 2) for supporting the filter away from the surface, only one discharge opening (33, figure 2) for discharging the beverage from the beverage preparation chamber, one set of discharge outlets (40, 41, figure 4) corresponding to one beverage collection chamber (having two outlets cooperating with a beverage collection chamber functions the same as having one outlet, the beverage is still distributed from one single collection chamber into one single cup), the discharge opening comprises a nozzle (page 5, lines 27-30), an aperture having a diameter sufficiently small to discharge the beverage as a jet to create foam in the beverage in the beverage collection chamber

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(page 4, lines 17-20) wherein the aperture has a width substantially between 0.75mm and 0.9mm (page 5, lines 30-32), and wherein the beverage collection chamber comprises a foam chamber in which foam can be created in the prepared beverage (page 4, lines 28-30).

Kodden et al fails to teach multiple beverage collection chambers wherein the alignment of the beverage collection chambers relative to the discharge opening is adjustable to position anyone of the beverage collection chambers to receive beverage from the discharge opening instead of other beverage collection chambers (claim 1, 5), a beverage collection unit for housing the beverage collection chambers (claim 6), the beverage collection chambers each comprise a segment of the beverage collection unit (claim 7), the beverage collection unit is rotatable in the beverage maker to adjust the alignment of the beverage collection chambers relative to the discharge opening (claim 8), and a separate outlet for each beverage collection chamber (claim 10).

Mangiapane, however, teaches multiple beverage collection chambers (fig 2) of a beverage making device, any one of the beverage collection chambers being aligned adjustably relative to the fluid flow channel (28) of the hot water supply of the beverage device to receive fluid instead of the other beverage collection chambers, a beverage collection unit (30) housing the beverage collection chambers, and a separate outlet for each of the beverage collection chambers (see fig 2).

In view of Mangiapane's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to include multiple beverage collection chambers with the beverage maker, taught by Kodden et al, that can be selectively (movably or rotatably) placed in communication with the discharge opening of the beverage preparation chamber. Including multiple beverage collection chambers allows for the machine to make more drinks more quickly or to produce different types of drinks more conveniently. Although Mangiapane does not show the beverage collection unit receiving beverage from a beverage preparation chamber, the rotatable beverage collection unit functions equally as each beverage collection chamber may be independently and adjustably placed into fluid communication with the fluid flow of the beverage maker.

Re claim 16:

Kodden et al teaches: a beverage preparation assembly (see figure 2) that can be removably mounted on a beverage maker, comprising a beverage preparation chamber (13, figure 1) in which beverage can be prepared, a discharge opening (33, figure 2) for discharging prepared beverage from the beverage preparation chamber, a beverage collection chamber (36, figure 1) for receiving prepared beverage discharged through the discharge opening and one or more outlets (40, 41, figure 4) for dispensing beverage from the beverage collection chambers into a cup (6, figure 1) for drinking.

Kodden et al fails to teach multiple beverage collection chambers wherein the alignment of the beverage collection chambers relative to the discharge opening is adjustable to

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position anyone of the beverage collection chambers to receive beverage from the discharge opening instead of other beverage collection chambers.

Mangiapane, however, teaches multiple beverage collection chambers (fig 2) of a beverage making device, any one of the beverage collection chambers being aligned adjustably relative to the fluid flow channel (28) of the hot water supply of the beverage device to receive fluid instead of the other beverage collection chambers.

In view of Mangiapane's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to include multiple beverage collection chambers with the beverage maker, taught by Kodden et al, that can be selectively placed in communication with the discharge opening of the beverage preparation chamber. Including multiple beverage collection chambers allows for the machine to make more drinks more quickly or to produce different types of drinks more conveniently. Although Mangiapane does not show the beverage collection unit receiving beverage from a beverage preparation chamber, the rotatable beverage collection unit functions equally as each beverage collection chamber may be independently and adjustably placed into fluid communication with the fluid flow of the beverage maker.

Re claim 17:

Kodden et al teaches: a method of making a beverage, the method comprising providing hot water to a beverage making chamber (page 3, lines 4-8) in which beverage is prepared, discharging prepared beverage from the beverage making chamber through a

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discharge opening, receiving prepared beverage discharged through the discharge opening in a beverage collection chamber, and dispensing beverage from the beverage collection chamber through an outlet into a cup for drinking (page 4, lines 17-21).

Kodden et al fails to teach that beverage is discharged through the discharge opening into one of multiple beverage collection chambers and wherein the method includes adjusting the alignment of the beverage collection chambers relative to the discharge opening to position any one of the beverage collection chambers to receive beverage from the discharge opening instead of other beverage collection chambers.

Mangiapane, however, teaches multiple beverage collection chambers (fig 2) of a beverage making device, any one of the beverage collection chambers being aligned adjustably relative to the fluid flow channel (28) of the hot water supply of the beverage device to receive fluid instead of the other beverage collection chambers, a beverage collection unit (30) housing the beverage collection chambers, and a separate outlet for each of the beverage collection chambers (see fig 2).

In view of Mangiapane's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to selectively place one of multiple collection chambers relative to the discharge opening, taught by Kodden et al, of the beverage preparation chamber. Including multiple beverage collection chambers allows for the machine to make more drinks more quickly or to produce different types of drinks more conveniently. Although Mangiapane does not show the beverage collection unit



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receiving beverage from a beverage preparation chamber, the rotatable beverage collection unit functions equally as each beverage collection chamber may be independently and adjustably placed into fluid communication with the fluid flow of the beverage maker.

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kodden et al (WO 03/055366 A2), cited by applicant, in view of Mangiapane (US 6,360,650 B1), as applied to claim 14 above, and further in view of Sargent et al (US 6,758,130 B2).

Re claim 15:

Kodden et al, modified by Mangiapane, discloses the claimed invention as set forth above except wherein the beverage maker further comprises a bypass chamber that can be aligned with the discharge opening to receive prepared beverage discharged from the discharge opening so that it bypasses the foam chambers and foam creation is avoided.

Sargent et al, however, teaches a brewing device (100, figure 15) of a beverage maker including a bypass route (114, figure 15) aligned with the flow of brew liquid such that the flow is routed around not through the brewing device (column 11, lines 1-9, column 17, lines 1-4).

In view of Sargent et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a bypass chamber in the beverage maker taught by Kodden et al, as modified by Mangiapane. The motivation to

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include a bypass chamber can be found in Sargent et al (column 14, lines 8-24), and although the bypass chamber of Sargent et al bypasses the brewing device, its purpose is much the same of that in instant case.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSEY C. TEATERS whose telephone number is 571-270-5913. The examiner can normally be reached on Mon-Thur 8:30am-6:00pm :: alternating Fri 8:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LINDSEY C TEATERS/

Examiner, Art Unit 3742

11/18/2009

/TU B HOANG/

Supervisory Patent Examiner, Art Unit 3742